

## REMARKS

Reconsideration of the instant application is respectfully requested in view of the foregoing amendments and the following comments. Claims 1-11 are in this application with claim 1 amended herein. No new matter is added by this amendment. The Examiner is thanked for indicating that claims 3-8 contain allowable subject matter and would be allowed if rewritten in independent form.

In the office action, claims 1-11 are rejected under 35 U.S.C. § 112, second paragraph, as indefinite. In response, claim 1 is amended to more clearly recite monitoring per channel in the entire spectrum. Support for this amendment can be found in paragraphs 0023-0025 of the application as originally filed. Withdrawal of the rejection is requested.

On the merits, claims 1, 2, and 9-11 are rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,633,430 to Monnard. The rejection is respectfully traversed for at least the following reasons.

The office action alleges that the relied upon portions of Monnard teaches a drop portion (28c, 28d, in Fig.9) which is monitored in order to provide compensation to variable optical attenuators to flatten the output spectrum. It is further alleged that the relied upon portions of Monnard monitor the signal and uses controller 52 to compensate for spectrum flatness, and therefore it would have been obvious to use the monitor and control means to determine what flatness is required and controls the VOAs accordingly.

However, it is submitted that claim 1 performs monitoring a spectrum of the dropped optical signal in order to solve problems of modulation spectrum (spectrum in the modulation band) as shown in Fig. 13 of the application. In contrast Monnard monitors a level difference

between channels for the adjustment and fails to recognize the problem of passing characteristics within a specific channel, as in the present invention. That is Monnard teachings relate only to instances where different channels are combined into a single path as claimed in claim 1 of Monnard et al "...associated with a different one of the channels", "a multiplexer that combines the optical signals for each of the channels onto a single path."

Accordingly, it is submitted that it would not be obvious to modify Monnard to result in the instantly claimed invention as it is directed to an essentially different art form from the invention as recited in claim 1.

For at least the foregoing reasons it is submitted that claims 1-11 patentably distinguish over the relied upon portions of the cited references and are allowable.

### **Conclusion**

In view of the remarks and amendments set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

/Nathan Weber/  
Nathan Weber  
Reg. No. 50,958

**CUSTOMER NUMBER 026304**

Telephone: (212) 940-8564

Fax: (212) 940-8986 or 8987

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